

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMIE SMITH,

Plaintiff,

v.

Case No. 10-13836

CITIMORTGAGE, INC., FLAGSTAR
BANK, and MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,

Honorable Patrick J. Duggan

Defendants.

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**ORDER DENYING WITHOUT PREJUDICE DEFENDANT FLAGSTAR BANK,
FSB'S MOTION TO DISMISS COMPLAINT PURSUANT TO FEDERAL RULE
OF CIVIL PROCEDURE 12(b)(6)**

On September 27, 2010, Plaintiff filed a *pro se* complaint against Defendants relating to a mortgage loan on her residence in Detroit, Michigan. On the same date, Plaintiff filed a “Motion for Aggressive Discovery”; and on October 18, 2010, Defendant CitiMortgage, Inc. (“CitiMortgage”) filed a motion for more definite statement pursuant to Federal Rule of Civil Procedure 121(f). On October 18, 2010, this Court referred both motions to Magistrate Judge R. Steven Whalen for hearing and determination pursuant to 28 U.S.C. § 636(b)(1)(A). On October 21, 2010, while Plaintiff’s and CitiMortgage’s motions were pending before Magistrate Judge Whalen, Defendant Flagstar Bank, FSB (“Flagstar”) filed a motion to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).

On November 16, 2010, an attorney entered his appearance on behalf of Plaintiff

and, on November 30, 2010, the parties (including Flagstar) stipulated to an order before Magistrate Judge Whalen resolving Plaintiff's discovery motion and CitiMortgage's motion for more definite statement. Specifically, the order provides that Plaintiff and CitiMortgage have agreed to withdraw their motions and orders Plaintiff to file and serve an amended complaint within fourteen days.

As Plaintiff has been directed to file an amended complaint, the Court **denies without prejudice** Flagstar's pending motion to dismiss as it is addressed to Plaintiff's initial complaint.

SO ORDERED.

DATED: December 9, 2010

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:

Patrick McQueeney, Esq.
Christopher Miller, Esq.
Charles Hahn, Esq.